

NOTICE OF PUBLIC HEARINGS

PROPOSED POLICY FOR IMPLEMENTATION OF TOXICS STANDARDS FOR INLAND SURFACE WATERS, ENCLOSED BAYS, AND ESTUARIES OF CALIFORNIA

Monday, November 17, 1997 -- 10:00 a.m. and 7:00 p.m.

First-Floor Auditorium
Resources Building
1416 Ninth Street, Sacramento, California

Wednesday, December 3, 1997 -- 10:00 a.m. and 7:00 p.m.

Newport Beach City Council Chambers
3300 Newport Boulevard, Newport Beach, California

NOTICE IS HEREBY GIVEN that public hearings will be held by the State Water Resources Control Board (SWRCB) to seek comments regarding a proposed State policy for water quality control: the draft "Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California" (proposed Policy). The purpose of the proposed Policy is to establish (1) statewide implementation provisions for priority toxic pollutant standards, and (2) statewide toxicity control provisions. The proposed Policy represents Phase 1 in a two-phase process to adopt a new Inland Surface Waters Plan (ISWP) and Enclosed Bays and Estuaries Plan (EBEP).

The proposed Policy will affect entities who discharge to the State's non-ocean surface waters, and are subject to regulation under the State's Porter-Cologne Water Quality Control Act and the Federal Clean Water Act (CWA). These entities are dischargers who are subject to regulation under waste discharge requirements, including National Pollutant Discharge Elimination System (NPDES) permits.

BACKGROUND

In April 1991, the SWRCB adopted the ISWP and EBEP. Those two statewide water quality control plans were adopted, in part, to comply with Section 303(c)(2)(B) of the CWA, which was added in the 1987 amendments to the CWA. This section of the CWA required the states to adopt water quality criteria for all CWA Section 307(a) priority toxic pollutants (priority pollutants) that could interfere with the designated uses of the State's waters and for which the U.S. Environmental Protection Agency (U.S. EPA) has published criteria guidance under CWA Section 304. (Criteria and uses together constitute water quality standards.) The ISWP and EBEP included water quality objectives (which are equivalent to Federal water quality criteria) for the majority of priority pollutants.

In 1992, the U.S. EPA promulgated the National Toxics Rule (NTR) to bring noncomplying states into compliance with Section 303(c)(2)(B), including California. The NTR established criteria for the priority pollutants that were not adopted in the 1991 ISWP and EBEP. In 1993, the ISWP and EBEP were amended to include objectives for the priority pollutants that were not included in the 1991 plans; however, the U.S. EPA did not stay the NTR criteria for California due to pending litigation against the ISWP and EBEP.

In September 1994, the SWRCB rescinded the 1993 ISWP and EBEP in response to a Sacramento County Superior Court ruling on the lawsuits. Since that time, California has not been in compliance with Section 303(c)(2)(B) of the CWA.

To bring California into compliance with Section 303(c)(2)(B), the U.S. EPA is proposing to promulgate the California Toxics Rule (CTR). The CTR is proposing water quality criteria for priority pollutants that were not previously promulgated for California in the NTR. The proposed CTR was released for public review on August 5, 1997 (Federal Register, Vol. 62, No. 150, 42160-42208).

The SWRCB is considering adoption of the proposed Policy to ensure consistent, statewide implementation of the CTR criteria. The SWRCB is coordinating its activities with the CTR by developing the ISWP and EBEP in two phases. Phase 1 entails the development and adoption of the proposed Policy (that is the subject of these public hearings). Phase 2 will involve the establishment of State-adopted water quality objectives for the priority pollutants included in the CTR and the incorporation of the Phase 1 policy in a new ISWP and EBEP.

KEY ISSUES

SWRCB staff has prepared a draft Functional Equivalent Document (FED) for the proposed Policy, in compliance with the California Environmental Quality Act. The FED presents an analysis of the issues addressed in the proposed Policy, as well as analyses of environmental and economic impacts of the proposed Policy.

The proposed Policy serves two major purposes: (1) to establish implementation provisions for the priority pollutant criteria promulgated under the CTR and the priority pollutant objectives in existing regional water quality control plans (basin plans) that are not superseded by the CTR; and (2) to establish toxicity control provisions.

The key issues regarding implementation of priority pollutant standards can be grouped into two areas: (1) establishing numeric effluent limitations, and (2) compliance determination.

The issues that are addressed in the proposed Policy for each group are as follows:

Establishing numeric effluent limitations: (a) selection of pollutants ("reasonable potential" determination); (b) calculating effluent limitations; (c) translators for metals and selenium; (d) mixing zones and dilution credits; (e) ambient background concentrations; and (f) intake water credits.

Compliance determination: (a) compliance schedules; (b) interim requirements; (c) monitoring and reporting requirements; and (d) reporting levels.

The key issues regarding toxicity control provisions consist of: (a) a statewide narrative chronic toxicity objective; (b) chronic toxicity testing methods; and (c) a program of implementation (i.e., toxicity control and reduction requirements).

In addition, the proposed Policy addresses: (1) monitoring requirements for 2,3,7,8-TCDD equivalents; (2) special provisions for storm water, nonpoint source discharges, site-specific objectives, watershed management and total maximum daily loads, and exceptions to the proposed Policy provisions; and (3) procedural guidance for planning and conducting special studies.

RECEIPT OF DOCUMENT AND OTHER INFORMATION

The proposed Policy and the draft FED are bound together in one document. The document can be accessed through the Internet at the SWRCB's website (<http://www.swrcb.ca.gov>). At the website, the proposed Policy and draft FED may be accessed from the SWRCB home page by clicking on "Plans, policies, staff reports & publications" and viewed by clicking on "Proposed Statewide Water Quality Plans (ISWP/EBEP)". The document is also available for pick-up at the SWRCB offices at 901 P Street in Sacramento. To receive a copy of the document through the mail, please call the voice mail box at (916) 657-1119, specify that you want to receive the document, and leave your name and mailing address. You may also call this number to leave your name and telephone number if you have questions about this notice, the document, or the public hearings. The voice mail messages will be checked periodically each day to ensure timely mailings of the document and responses to questions.

SUPPLEMENT TO FED

Portions of the environmental and economic analyses were not completed in time to include in the September 10 draft FED. They are: (1) proposed reporting level values, and associated environmental and economic analyses; (2) an economic case study

for intake water credits; and (3) economic case studies for toxicity provisions. While the draft Policy is proposing no changes to the SWRCB's Nonpoint Source Management Plan, the SWRCB will present some economic case studies of existing nonpoint source control practices. This additional information will be presented in a supplement to the FED and will be available for public review in October 1997.

Persons who received a copy of the proposed Policy and FED will be mailed the supplement to the FED when it becomes available. Other persons must call the voice mail box number (noted above) to request the supplement.

SUBMISSION OF COMMENTS

All comments on the proposed Policy under consideration must be submitted **by 5:00 p.m. on December 10, 1997**. To ensure timely adoption of the proposed Policy, persons are strongly encouraged to submit written comments in advance of the public hearings. All comments received will be considered by the SWRCB before adopting the proposed Policy.

Written comments may be summarized and additional materials may also be submitted during the hearings. Time limitations may be imposed on oral presentations at the hearings. Persons with similar views are encouraged to make joint presentations. Written comments should be submitted by mail or fax to:

Gail Linck
Division of Water Quality
State Water Resources Control Board
P.O. Box 944213
Sacramento, CA 94244-2130

fax: (916)657-2388

FUTURE MAILINGS

To ensure that potentially affected individuals received notice of these public hearings and the availability of the document, multiple mailing lists were used. Therefore, it is possible that some persons received more than one notice. If this is the case, please pass on the extra notices to other interested persons. If you received more than one notice or do not wish to receive future information on the proposed Policy and ISWP/EBEP, please call the voice mail box at (916) 657-1119, specify the mailing list change that you want, and leave your name, mailing address, and telephone number.

SCHEDULE FOR ADOPTION

The proposed Policy will be considered for adoption by the SWRCB after the CTR is promulgated by the U.S. EPA. Both of these events are scheduled to occur around Spring 1998. However, recently-adopted State legislation (SB 1320) requires that the scientific portions of policies adopted by the SWRCB that have the effect of a regulation be reviewed by an external scientific peer review entity. This peer review will occur concurrent with the public review that begins with this notice. If, as a result of the peer review, it becomes necessary to convene additional public hearings, adoption of the proposed Policy may be delayed.

No decisions will be made at the public hearings regarding adoption of the proposed Policy. A summary of the hearing records will be presented to the SWRCB at a future Board Workshop and Board Meeting. Interested persons will be notified of the date, time, and location of those public meetings.

COURT REPORTER

A court reporter will record all of the oral comments made at the public hearings. Persons who desire a copy of the hearing transcripts must make their own arrangements with the court reporter.

PARKING AND ACCESSIBILITY

The hearing and public parking locations are indicated on the attached maps. The locations of the hearing are accessible to persons with disabilities. ***[These maps are not available on the Internet. You may request the map(s) by calling the voice mail box at (916) 657-1119.]***

/s/ _____
Maureen Marché
Administrative Assistant to the Board

Date: September 12, 1997